



# DATA PROTECTION POLICY

## 1. INTRODUCTION

- 1.1. The Hasmonean Multi-Academy Trust ("the Trust") collects and uses certain types of personal information about Staff, Students, parents and other individuals who come into contact with the Trust School in order to provide education and associated functions. The Trust may be required by law to collect and use certain types of information to comply with statutory obligations related to employment, education and safeguarding, and this policy is intended to ensure that personal information is dealt with properly and securely and in accordance with the Data Protection Act 2018 and other related legislation ('GDPR' in the case of EU Citizens, the 'PECR' or ePrivacy regulation, and the forthcoming Online Harms Bill), to be referred to collectively as 'Data Law'.
- 1.2. Data Law applies to all digital data and manual files as commonly understood, being stored in an online or offline digital filing or storage system, or in the form of physical files. Broadly speaking, data processing occurs where data is received by an organisation in the course of its normal operations and then may be processed, shared, analysed or otherwise stored for a period of time.
- 1.3. The Trust is considered to be both a Data Controller and a Data Processor under data law.
- 1.4. The physical location of the data storage facility may be in a different location from the users or data subjects concerned, as is the case with Cloud-based services and with Disaster Recovery services. Data law makes it clear that the organisation that initially received the data is responsible for the lifecycle of that data, and communications with the data subjects concerned.
- 1.5. This policy will be updated as necessary to reflect best practice, or amendments made to data protection and privacy legislation, and shall be reviewed every 2 years.
- 1.6. The School's Data Protection Officer is Mrs Harris-Ellis and can be contacted by email on [dpo@hasmonean.co.uk](mailto:dpo@hasmonean.co.uk) or by post to Mrs Harris-Ellis, Holders Hill Road, London NW4 1NA. 'DPO'.

## **2. PERSONAL DATA**

- 2.1. 'Personal data' is information that identifies an individual, and includes information that might identify an individual to a person to whom it is disclosed because of any special knowledge that they have or can infer from other data sets that they may hold. A sub-set of personal data is known as 'special category personal data'. This Special Category Data is information that reveals any of the following:
- 2.1.1. race or ethnic origin;
  - 2.1.2. political opinions;
  - 2.1.3. religious or philosophical beliefs;
  - 2.1.4. trade union membership;
  - 2.1.5. physical or mental health;
  - 2.1.6. an individual's sex life or sexual orientation;
  - 2.1.7. genetic or biometric data for the purpose of uniquely identifying a natural person.
- 2.2. Special Category Data is given special protection, given that greater real-world harms may come to the data subject in the event of this data being disclosed. Additional safeguards apply if this information is to be collected and processed. There is also a requirement for an additional legal basis for the processing of this Special Category Data to be established under Article 9 of the Data Protection Act 2018.
- 2.3. Information relating to criminal convictions shall only be held and processed where there is legal authority to do so.
- 2.4. The Trust does not intend to seek or hold Special Category Data (previously known as sensitive personal data) about Staff or Students except where the Trust has been notified of the information, or it comes to the Trust's attention via legitimate means (e.g. a grievance) or needs to be sought and held in compliance with a legal obligation or as a matter of good practice, for safeguarding purposes etc. Staff or Students are under no obligation to disclose to the Trust their race or ethnic origin, political or religious beliefs (save to the extent that details of religious beliefs and observance of Students is required to comply with the Trust's Admissions criteria), whether or not they are a trade union member or details of their sexual life (save to the extent that details of marital status and / or parenthood are needed for other purposes, e.g. pension entitlements).

## **3. DATA PROTECTION PRINCIPLES**

- 3.1. Best efforts are to be made to adhere to the six data protection principles outlined in the Data Protection Act 2018:

- 3.1.1. Personal data shall be processed fairly, lawfully and in a transparent manner, and processing shall not be lawful unless one of the processing conditions (as set out in Clause 4 below) can be met;
- 3.1.2. Personal data shall be collected for specific, explicit, and legitimate purposes, and shall not be further processed in a manner incompatible with those purposes without prior notification and the acknowledgement of the data subject concerned;
- 3.1.3. Personal data shall be adequate, relevant, and limited to what is necessary for the purpose(s) for which it is being processed;
- 3.1.4. Personal data shall be accurate and, where necessary, kept up to date;
- 3.1.5. Personal data processed for any purpose(s) shall not be kept in a form which permits identification of individuals for longer than is necessary for that purpose / those purposes;
- 3.1.6. Personal data shall be processed in such a way that ensures appropriate security of the data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures.
- 3.2. In addition to this, the Trust is committed to ensuring that at all times, anyone dealing with personal data shall be mindful of the individual's rights under the law (as explained in more detail in paragraphs 7 and 8 below).
- 3.3. The Trust is committed to complying with the principles in 3.1 at all times. This means that the Trust will:
- 3.3.1. inform individuals about how and why we process their personal data through the privacy notices which we issue.
- 3.3.2. be responsible for checking the quality and accuracy of the information;
- 3.3.3. regularly review the records held to ensure that information is not held longer than is necessary, and that it has been held in accordance with the data retention policy;
- 3.3.4. ensure that when information is authorised for disposal it is done appropriately;
- 3.3.5. ensure appropriate security measures to safeguard the information systems containing personal information whether it is held in paper files or on a digital system, and follow the relevant security policy requirements at all times;
- 3.3.6. share personal information with others only when it is necessary and legally appropriate to do so;
- 3.3.7. set out clear procedures for responding to requests for access to personal information known as Data Subject Access Requests ("DSARs" or "SARs");
- 3.3.8. report any data breaches in accordance with the procedure in paragraph 9 below.

#### **4. CONDITIONS FOR PROCESSING IN THE FIRST DATA PROTECTION PRINCIPLE**

- 4.1. The individual has given consent that is specific to the particular type of processing activity, and that consent is informed, unambiguous and freely given.
- 4.2. The processing is necessary for the performance of a contract, to which the individual is a party, or is necessary for the purpose of taking steps with regards to entering into a contract with the individual, at their request.
- 4.3. The processing is necessary for the performance of a legal obligation to which we are subject.
- 4.4. The processing is necessary to protect the vital interests of the individual or another.
- 4.5. The processing is necessary for the performance of a task carried out in the public interest, or in the exercise of official authority vested in us.

#### **5. USE OF PERSONAL DATA BY THE TRUST**

- 5.1. The Trust processes the personal data of Students, Staff and other individuals such as visitors. In each case, the personal data must be processed in accordance with the data protection principles as outlined in paragraph 3.1 above.

##### **Students**

- 5.2. The personal data held regarding Students includes contact details, assessment / examination results, attendance information, characteristics such as ethnic group, special educational needs, any relevant medical information, and photographs.
- 5.3. The data is used in order to support the education of the Students, to monitor and report on their progress, to provide appropriate pastoral care, and to assess how well the Trust as a whole is doing, together with any other uses normally associated with this provision in a School environment.
- 5.4. The Trust may make use of personal data relating to Students, their parents or guardians for fundraising, marketing or promotional purposes and to maintain relationships with Students of the Trust, where there is a legitimate interest in doing so or where consent has been received.
- 5.5. In particular, it is deemed in the legitimate interest of the Trust to:
  - 5.5.1. Share information with the Hasmonean High School Charitable Trust, a Charity whose aims are to solely raise funds for the Trust, for the purpose of maintaining contact with former Students for fundraising, marketing or promotional purposes relating to the Trust;
  - 5.5.2. make personal data, including sensitive personal data, available to Staff for planning curricular or extra-curricular activities;
  - 5.5.3. Use photographs of Students in accordance with the Trust's photograph policy.

- 5.6. Any request to limit or object to any use of personal data should be notified to the Trust's Data Protection Officer (DPO) in writing, which notice will be acknowledged by the Trust in writing within 72 hours, and the request resolved within 30 days. If, in the view of the DPO, the objection cannot be maintained, or the request not complied with within the 30 day period, the individual will be given written reasons why the Trust cannot comply or requires more time to process the request.
- 5.7. Full examination data protection information can be found in the Data Protection Policy for Exams

### **Staff**

- 5.8. The personal data held about Staff will include contact details, employment history, and information relating to career progression, information relating to DBS checks, photographs, and occupational pensions.
- 5.9. The data is used to comply with legal obligations placed on the Trust in relation to employment, and the education of children in a School environment. The Trust may pass information to other regulatory authorities where appropriate, and may use names and photographs of Staff in publicity and promotional material. Personal data will also be used when giving references.
- 5.10. Staff should note that information about disciplinary action may be kept for longer than the duration of the sanction. Although treated as "spent" once the period of the sanction has expired, the details of the incident may need to be kept for a longer period.
- 5.11. The Trust will retain data regarding the performance of Staff in order to carry out performance management assessments.
- 5.12. Information relating to DBS checks
- 5.13. DBS checks are carried out on the basis of the Trust's legal obligations in relation to the safer recruitment of Staff as stipulated in the Independent School Standards Regulations and the DBS information (which will include personal data relating to criminal convictions and offences) is further processed in the substantial public interest, with the objective of safeguarding children. Retention of the information is covered by the Trust's Records Retention Policy.

Access to the DBS information is restricted to those Staff who have a genuine need to have access to it for their job roles. In addition to the provisions of the Data Protection Act 2018, disclosure of this information is restricted by section 124 of the Police Act 1997 and disclosure to third parties will only be made if it is determined to be lawful.

- 5.14. Any wish to limit or object to the uses to which personal data is to be put should be notified to the DPO who will ensure that this is recorded, and adhered to if appropriate. If the DPO is of the view that it is not appropriate to limit the use of personal data in the way specified, the individual will be given written reasons why the Trust cannot comply with their request.

## **Other Individuals**

- 5.15. The Trust may hold personal information in relation to other individuals who have contact with the Trust, such as volunteers and guests. Such information shall be held only in accordance with the data protection principles, and shall not be kept longer than necessary.

## **6. SECURITY OF PERSONAL DATA**

- 6.1. The Trust will take reasonable steps to ensure that members of Staff will only have access to personal data where it is necessary for them to carry out their duties. All Staff will be made aware of this Policy and their duties under the Data Protection Act 2018 and other relevant Data Law. The Trust will take all reasonable steps to ensure that all personal information is held securely and is not accessible to unauthorised persons.
- 6.2. For further details as regards security of IT systems, please refer to the Trust's ICT Policy.

## **7. DISCLOSURE OF PERSONAL DATA TO THIRD PARTIES**

- 7.1. The following list includes the most usual reasons that the Trust will disclose personal data to a third party:
- 7.1.1. To give a confidential reference relating to a current or former employee, volunteer or Student;
  - 7.1.2. for the prevention or detection of crime;
  - 7.1.3. for the assessment of any tax or duty;
  - 7.1.4. where it is necessary to exercise a right or obligation conferred or imposed by law upon the Trust (other than an obligation imposed by contract);
  - 7.1.5. for the purpose of, or in connection with, legal proceedings (including prospective legal proceedings);
  - 7.1.6. for the purpose of obtaining legal advice;
  - 7.1.7. for research, historical and statistical purposes (so long as this neither supports decisions in relation to individuals, nor causes substantial damage or distress);
  - 7.1.8. to publish the results of public examinations or other achievements of Students of the Trust;
  - 7.1.9. to disclose details of a Student's medical condition where it is in the Student's vital interests to do so and there is a legal basis for doing so, for example for medical advice, insurance purposes or to organisers of Trust trips; The legal basis will vary in each case but will usually be based on explicit consent, the vital interests of the child or reasons of substantial public interest (usually safeguarding the child or other individuals)
  - 7.1.10. to provide information to another educational establishment to which a Student is transferring subject to obtaining the consent of the Student or their parent/guardian, where required.;

7.1.11. to provide information to the Examination Authority as part of the examination process; and

7.1.12. to provide information to the relevant Government Department concerned with national education. At the time of the writing of this Policy, the Government Department concerned with national education is the Department for Education (DfE). The Examination Authority may also pass information to the DfE.

7.2. The DfE uses information about Students for statistical purposes, to evaluate and develop education policy and to monitor the performance of the nation's education service as a whole. The statistics are aggregated and de-identified in such a way that individual Students cannot be identified from them. On occasion the DfE may share the personal data with other Government Departments or agencies strictly for statistical or research purposes.

7.3. The Trust may receive requests from third parties (i.e. those other than the data subject, the Trust, and employees of the Trust) to disclose personal data it holds about Students, their parents or guardians, Staff or other individuals. This information will not generally be disclosed unless one of the specific exemptions under data protection legislation which allow disclosure applies; or where necessary for the legitimate interests of the individual concerned or the Trust.

7.4. All requests for the disclosure of personal data must be sent to the DPO, who will review and decide whether to make the disclosure, ensuring that reasonable steps are taken to verify the identity of that third party before making any disclosure. If necessary, in cases where disclosure may or may not be justified, the DPO shall consult with other stakeholders in the School's data governance structure in order for a decision to be made.

## **8. CONFIDENTIALITY OF STUDENT CONCERNS**

8.1. Where a Student seeks to raise concerns confidentially with a member of Staff and expressly withholds their agreement to their personal data being disclosed to their parents or guardian, the Trust will maintain confidentiality unless it has reasonable grounds to believe that the Student does not fully understand the consequences of withholding their consent, or where the Trust believes disclosure will be in the best interests of the Student or other Students.

8.2. Disclosure for a safeguarding purpose will be lawful because it will be in the substantial public interest or the vital interests of the Student. The Trust's Safeguarding Policy sets out the needs for such disclosure in more detail.

## **9. DATA SUBJECT ACCESS REQUESTS (DSARs)**

9.1. Anybody who makes a request to see any personal information held about them by the Trust is making a Data Subject Access Request (DSAR). All information relating to the individual, including that held in electronic or manual files should be considered for disclosure, provided that they constitute a "filing system" (see clause 1.5).

9.2. The individual's full subject access right is to know:

- whether personal data about them are being processed
  - the purposes of the processing
  - the categories of personal data concerned
  - the recipients or categories of recipient to whom their personal data have been or will be disclosed
  - the envisaged period for which the data will be stored or where that is not possible, the criteria used to determine how long the data are stored
  - the existence of a right to request rectification or erasure of personal data or restriction of processing or to object to the processing
  - the right to lodge a complaint with the Information Commissioner's Office
  - Where the personal data are not collected from the individual, any available information as to their source
  - Details of the safeguards in place for any transfers of their data to locations outside the European Economic Area.
- 9.3. All requests should be sent to the DPO, and must be acknowledged within 72 hours, and dealt with in full without delay and at the latest within {one month} 30 days of receipt, unless there is a reasonable cause for this period to be extended, for example in the case of a particularly complex or large request. Any extension to the normal 30 day period shall be communicated to the Data Subject within 30 days of the original request.
- 9.4. Where a child or young person does not have sufficient understanding to make his or her own request (usually those under the age of 12, or over 12 but with a special educational need which makes understanding their information rights more difficult), a person with parental responsibility can make a request on their behalf. The DPO must, however, be satisfied that:
- 9.4.1. the child or young person lacks sufficient understanding; and
  - 9.4.2. the request made on behalf of the child or young person is in their interests.
- 9.5. Any individual, including a child or young person with ownership of their own information rights, may appoint another person to request access to their records. In such circumstances the Trust must have written evidence that the individual has authorised the person to make the application and the DPO must be confident of the identity of the individual making the request and of the authorisation of the individual to whom the request relates.
- 9.6. Access to records will be refused in instances where an exemption applies, for example, information sharing may place the individual at risk of significant harm or jeopardise police investigations into any alleged offence(s).
- 9.7. A DSAR may be made orally or in writing. For clarity, a DSAR in writing is preferred, where possible. The Trust may ask for any further information reasonably required to locate the information.
- 9.8. An individual only has the automatic right to access information about themselves, and care needs to be taken not to disclose the personal data of third parties where consent has not been given, or where seeking consent would not be reasonable, or it would not be

appropriate to release the information because doing so might infringe the privacy of another individual. Particular care must be taken in the case of any complaint or dispute to ensure confidentiality is protected.

9.9. All files must be reviewed by the DPO before any disclosure takes place. Access will not be granted before this review has taken place.

9.10. Where all the data in a document cannot be disclosed a permanent copy should be made and the data obscured or retyped if this is more sensible. A copy of the full document and the altered document should be retained, with the reason why the document was altered.

## **10. EXEMPTIONS TO ACCESS BY DATA SUBJECTS**

10.1. Where a claim to legal professional privilege could be maintained in legal proceedings, the information is likely to be exempt from disclosure unless the privilege is waived.

10.2. There are other exemptions from the right of subject access. If the Trust intends to apply any of them to a request then it will usually explain which exemption is being applied and why.

## **11. OTHER RIGHTS OF INDIVIDUALS**

11.1. The Trust has an obligation to comply with the rights of individuals under the law, and takes these rights seriously. The following section sets out how the Trust will comply with the rights to:

- 11.1.1. object to Processing;
- 11.1.2. rectification or amendment
- 11.1.3. erasure; and
- 11.1.4. data Portability.

### **Right to object to processing**

11.2. An individual has the right to object to the processing of their personal data on the grounds of pursuit of a public interest (ground 4.5) where they do not believe that this ground is adequately established.

11.3. Where such an individual wishes to make such an objection, they must send their objection, preferably in writing to the DPO and the DPO will assess whether there are compelling grounds to continue processing which override the interests, rights and freedoms of the individuals, or whether the information is required for the establishment, exercise or defence of legal proceedings.

11.4. The DPO shall be responsible for notifying the individual of the outcome of their assessment within 30 working days of receipt of the objection.

### **Right to rectification**

- 11.5. An individual has the right to request the rectification of inaccurate data without undue delay. Where any request for rectification is received, it should be sent to The DPO, and where adequate proof of inaccuracy is given, the data shall be amended as soon as reasonably practicable, and the individual notified.
- 11.6. Where there is a dispute as to the accuracy of the data, the request and reasons for refusal shall be noted alongside the data, and communicated to the individual. The individual shall be given the option of a review under the data protection complaints procedure, or an appeal direct to the Information Commissioner.
- 11.7. An individual also has a right to have incomplete information completed by providing the missing data, and any information submitted in this way shall be updated without undue delay.

### **Right to erasure**

- 11.8. Individuals have a right, in certain circumstances, to have data permanently erased without undue delay. This right arises in the following circumstances:
- 11.8.1. where the personal data is no longer necessary for the purpose or purposes for which it was collected and processed;
  - 11.8.2. where consent is withdrawn and there is no other legal basis for the processing;
  - 11.8.3. where an objection has been raised under the right to object, and found to be legitimate;
  - 11.8.4. where personal data is being unlawfully processed (usually where one of the conditions for processing cannot be met);
  - 11.8.5. where there is a legal obligation on the Trust to delete.
- 11.9. The DPO will make a decision regarding any application for erasure of personal data, and will balance the request against the exemptions provided for in the law. Where a decision is made to erase the data, and this data has been passed to other data controllers, and / or has been made public, reasonable attempts to inform those controllers of the request shall be made.

### **Right to restrict processing**

- 11.10. In the following circumstances, processing of an individual's personal data may be restricted:
- 11.11. In the following circumstances, processing of an individual's personal data may be restricted:

- 11.11.1. where the accuracy of data has been contested, during the period when the Trust is attempting to verify the accuracy of the data;
- 11.11.2. where processing has been found to be unlawful, and the individual has asked that there be a restriction on processing rather than erasure;
- 11.11.3. where data would normally be deleted, but the individual has requested that their information be kept for the purpose of the establishment, exercise or defence of a legal claim;
- 11.11.4. where there has been an objection made under para 11.2 above, pending the outcome of any decision.

#### **Right to portability**

- 11.12. If an individual wants to send their personal data to another organisation they have a right to request that the Trust provides their information in a structured, commonly used, and machine readable format. As this right is limited to situations where the Trust is processing the information on the basis of consent or performance of a contract, the situations in which this right can be exercised will be quite limited. If a request for this is made, it should be forwarded to the DPO, and the DPO will review and revert as necessary.

## **12 BREACH OF ANY REQUIREMENT OF THE DATA PROTECTION ACT 2018**

- 12.1 Any and all breaches of the DPA 2018, including a breach of any of the data protection principles shall be reported as soon as it is/they are discovered, to the DPO.

- 12.2 Once notified, the DPO shall assess:

- 12.2.1 the extent of the breach;
- 12.2.2 the risks to the data subjects as a consequence of the breach;
- 12.2.3 any security measures in place that will protect the information;
- 12.2.4 any measures that can be taken immediately to mitigate the risk to the individuals.

- 12.3 Unless the DPO concludes that there is unlikely to be any risk to individuals from the breach, it must be notified to the Information Commissioner's Office within 72 hours of the breach having come to the attention of the Trust, unless a delay can be justified.

- 12.4 The Information Commissioner shall be told:

- 12.4.1 details of the breach, including the volume of data at risk, and the number and categories of data subjects;
- 12.4.2 the contact point for any enquiries (which shall usually be the DPO);

12.4.3 the likely consequences of the breach;

12.4.4 measures proposed or already taken to address the breach.

12.5 If the breach is likely to result in a high risk to the rights and freedoms of the affected individuals then the DPO shall notify data subjects of the breach without undue delay unless the data would be unintelligible to those not authorised to access it, or measures have been taken to mitigate any risk to the affected individuals.

12.6 Data subjects shall be told:

12.6.1 the nature of the breach;

12.6.2 who to contact with any questions;

12.6.3 measures taken to mitigate any risks.

12.7 The DPO shall then be responsible for instigating an investigation into the breach, including how it happened, and whether it could have been prevented. Any recommendations for further training or a change in procedure shall be reviewed by the Trust and its Local Governors and a decision made about implementation of those recommendations.

## 13 Training

The Trust will ensure that staff receives regular Data Protection training. Staff will be trained annually via our training system GDPR Sentry. Ad-hoc training will also take place during the academic year during INSET days. This will take place for general reminders, or if a breach or incident has occurred and additional training/information needs to be given. If incidents do occur, Staff will be informed if and when applicable.

## Brexit

The Data Adequacy provisions of the Data Protection Act and the GDPR both allow for the ability to transfer data freely and safely between the UK and countries within the EU, as well as certain other legal jurisdictions. Any country outside of the UK or EU is classed as a third country. Transferring data to a third country can only take place if there is a suitable mechanism in place, such as; individuals' consent, standard contractual clauses and that the UK or EU deems a country to have met adequacy requirement. Adequate countries include - *Andorra, Argentina, Canada (commercial organisations), Faroe Islands, Guernsey, Israel, Isle of Man, Japan, Jersey, New Zealand, Switzerland and Uruguay. Adequacy talks are ongoing with South Korea.* Adequacy findings are subject to change and new countries could be added

## 14 CONTACT

- 13.1 If anyone has any concerns or questions in relation to this policy they should contact the DPO. The Trust's Data Protection Officer can be contacted by email on [dpo@hasmonean.co.uk](mailto:dpo@hasmonean.co.uk) or by post to DPO, Hasmonian High School, Holders Hill road, London NW4 1NA. 'DPO'

Approved by Mrs J Silkoff, Governor, October 2022

Reviewed by Mrs Harris-Ellis and Rafael Bloom (Data Protection / Privacy Advisor) May 2023

The next review shall take place in May 2024

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